

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-CV-80867-DT

DESHAWN WELLS,

Defendant.

**ORDER DENYING DEFENDANT’S “MOTION TO SUPPRESS
DEFENDANT’S STATEMENTS”**

Pending before the court is Defendant Deshawn Wells’s January 12, 2006 “Motion to Suppress Defendant’s Statements.” For the reasons stated below, the court will deny Defendant’s motion.

On September 22, 2005, Defendant was charged in an indictment with being a felon in possession of a firearm, in violation of 18 U.S.C. §922(g). (See 9/22/2005 Criminal Compl.) The charges in the indictment arose from his arrest on August 17, 2005. (*Id.*) Defendant was arrested by two Jackson police officers after they heard gunshots in a certain area and then observed Defendant walking away from that area with a silver colored object in his right hand. (*Id.*) The officers called to Defendant to stop, and Defendant began running and dropped the silver colored object from his hand. (*Id.*) Defendant was ultimately apprehended and transported to the Jackson County Jail. (*Id.*) While in jail, the arresting officers interviewed Defendant. (*Id.*)

In his “Motion to Suppress Defendant’s Statements,” defense counsel asserts that he “has not received any Advice of Rights/Waiver of Rights Form initialed by the

officer or signed by Defendant.” (Def.’s Mot. at 2.) Defendant further asserts that “the absence of this advice of rights form bears on the issue of whether Defendant knowingly and voluntarily waived his *Miranda* rights before being subjected to custodial interrogation by the officers.” (*Id.*) As a result of not having seen this document, Defendant asks that the court issue an order “excluding Defendant’s statements to Jackson Police Officers on August 17, 2005 from evidence at trial, [or alternatively conducting] an evidentiary hearing to ascertain the facts of this matter.” (*Id.* at ¶11.)

In its February 3, 2006 response, the Government states that “at the time of the filing of [Defendant’s] motion, the government had yet to provide the Miranda waiver,” however “[t]he government has rectified this oversight and provided the Miranda waiver form to counsel via fax and regular mail.” (Pl.’s Resp. at 1.)

Defendant has not presented his motion on any basis other than his failure to receive the Advice of Rights/Waiver of Rights Form and he has not filed a reply controverting the government’s contention that it has now presented the form to Defendant. Therefore, Defendant’s sole basis for presenting his motion has apparently been resolved and suppression is not warranted. Accordingly,

IT IS ORDERED that Defendant’s “Motion to Suppress Defendant’s Statements” [Dkt. # 16] is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: February 15, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, February 15, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522